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# A BILL FOR AN ACT

RELATING TO INTOXICATING LIQUOR.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. Section 281-78, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3       "(b) At no time under any circumstances shall any licensee  
4 or its employee:

5       (1) Sell, serve, or furnish any liquor to, or allow the  
6 consumption of any liquor by:

7       (A) Any minor;

8       (B) Any person at the time under the influence of  
9 liquor;

10       (C) Any person known to the licensee to be addicted  
11 to the excessive use of intoxicating liquor; ~~[or]~~

12       (D) Any restricted person; or

13       ~~[-(D)-]~~ (E) Any person for consumption in any vehicle

14 that is licensed to travel on public highways;

15 provided that the consumption or sale of liquor to a

16 minor shall not be deemed to be a violation of this

17 subsection if, in making the sale or allowing the



1 consumption of any liquor by a minor, the licensee was  
2 misled by the appearance of the minor and the  
3 attending circumstances into honestly believing that  
4 the minor was of legal age and the licensee acted in  
5 good faith; [and] provided further that it shall be  
6 incumbent upon the licensee to prove that the licensee  
7 so acted in good faith;

8 (2) Permit any liquor to be consumed on the premises of  
9 the licensee or on any premises connected therewith,  
10 whether there purchased or not, except as permitted by  
11 the terms of its license;

12 (3) Permit any liquor to be sold or served by any person  
13 eighteen to twenty years of age except in licensed  
14 establishments where selling or serving the  
15 intoxicating liquor is part of the minor's employment,  
16 and where there is proper supervision of these minor  
17 employees to ensure that the minors shall not consume  
18 the intoxicating liquor;

19 (4) Permit any liquor to be sold or served by any person  
20 below the age of eighteen years upon any licensed  
21 premises, except in individually specified licensed



1 establishments found to be otherwise suitable by the  
2 liquor commission in which an approved program of job  
3 training and employment for dining room waiters and  
4 waitresses is being conducted in cooperation with the  
5 University of Hawaii, the state community college  
6 system, or a federally sponsored personnel development  
7 and training program, under arrangements that ensure  
8 proper control and supervision of employees;

9 (5) Knowingly permit any person under the influence of  
10 liquor or disorderly person to be or remain in or on  
11 the licensed premises;

12 (6) Fail to timely prevent or suppress any violent,  
13 quarrelsome, disorderly, lewd, immoral, or unlawful  
14 conduct of any person on the premises;

15 (7) Sell any draught beer unless upon the faucet, spigot,  
16 or outlet wherefrom the beer is drawn there is  
17 attached a clear and legible notice, placard, or  
18 marker which in the English language indicates and  
19 declares the name or brand adopted by the manufacturer  
20 of the draught beer, so situated as to be clearly  
21 legible for a distance of at least ten feet from the



1 spigot, faucet, or outlet, to a purchaser with normal  
2 vision; or

3 (8) Receive from a person, as payment or as a  
4 consideration for liquor, any personal or household  
5 goods, including clothing and food, or any implements  
6 of trade. Any person violating this paragraph shall  
7 be guilty of a misdemeanor and upon conviction shall  
8 be punished as provided in section 281-102.

9 For purposes of this subsection, "restricted person" has  
10 the same meaning as in section 712-1250.5."

11 SECTION 2. Section 281-101.5, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "~~§281-101.5 Prohibitions involving minors[+]~~ or restricted  
14 persons; penalty. (a) Any adult who provides or purchases  
15 liquor for consumption or use by a person under twenty-one years  
16 of age or any restricted person shall be guilty of the offense  
17 under section 712-1250.5.

18 (b) No minor or restricted person shall consume or  
19 purchase liquor and no minor or restricted person shall consume  
20 or have liquor in the minor's or restricted person's possession  
21 or custody in any public place, public gathering, or public



1 amusement, at any public beach or public park, or in any motor  
2 vehicle on a public highway; provided that notwithstanding any  
3 other law to the contrary, this subsection shall not apply to:

4 (1) Possession or custody of liquor by a minor or  
5 restricted person in the course of delivery, pursuant  
6 to the direction of the minor's or restricted person's  
7 employer lawfully engaged in business necessitating  
8 the delivery;

9 (2) Possession, custody, or consumption of liquor by a  
10 minor or restricted person in connection with the  
11 minor's or restricted person's authorized  
12 participation in religious ceremonies requiring such  
13 possession, custody, or consumption; or

14 (3) Any person between the ages of eighteen and twenty,  
15 who is participating in a controlled purchase as part  
16 of a law enforcement activity or a study authorized by  
17 the department of health to determine the level of  
18 incidence of liquor sales to minors.

19 (c) No minor or restricted person shall falsify any  
20 identification or use any false identification or identification  
21 of another person or of a fictitious person for the purpose of



1 buying or attempting to buy liquor or for the purpose of  
2 obtaining employment to sell or serve liquor on licensed  
3 premises.

4 (d) Any person under age eighteen who violates this  
5 section shall be subject to the jurisdiction of the family  
6 court. Any restricted person over the age of twenty-one who  
7 violates this section or person age eighteen to twenty-one who  
8 violates subsection (b) or (c) shall be guilty of a petty  
9 misdemeanor. The court shall order that any person under  
10 twenty-one years of age found to be in violation of this section  
11 shall have, in addition to any other disposition or sentencing  
12 provision permitted by law, the person's license to operate a  
13 motor vehicle, or the person's ability to obtain a license to  
14 operate a motor vehicle, suspended as follows:

15 (1) For licensed drivers, the driver's license shall be  
16 suspended for ~~not~~ no less than one hundred and  
17 eighty days with exceptions to allow, at the  
18 discretion of the sentencing court, driving to and  
19 from school, school-sponsored activities, and  
20 employment;



- 1           (2) For persons with a provisional license, the  
2           provisional license shall be suspended for ~~[not]~~ no  
3           less than one hundred and eighty days with exceptions  
4           to allow, at the discretion of the sentencing court,  
5           driving to and from school, school-sponsored  
6           activities, and employment;
- 7           (3) For persons with an instruction permit, the  
8           instruction permit shall be suspended for ~~[not]~~ no  
9           less than one hundred and eighty days with exceptions  
10          to allow, at the discretion of the sentencing court,  
11          driving to and from school, school-sponsored  
12          activities, and employment; or
- 13          (4) For persons not licensed to drive, eligibility to  
14          obtain a driver's license, provisional license, or  
15          instruction permit shall be suspended until the age of  
16          seventeen or for one hundred and eighty days, at the  
17          discretion of the court; and
- 18          (5) [~~Chapter 571 notwithstanding,~~] Notwithstanding chapter  
19          571, in any case where a person under the age of  
20          eighteen violates this section, the family court judge  
21          may suspend the driver's license, provisional license,



1 or instruction permit, or suspend the eligibility to  
2 obtain a driver's license, provisional license, or  
3 instruction permit in accordance with this section;  
4 provided that the requirement to provide proof of financial  
5 responsibility pursuant to section 287-20 shall not be based  
6 upon a sentence imposed under paragraphs (1) and (2). In  
7 addition, all persons whether or not licensed, found to be in  
8 violation of this section shall be sentenced to seventy-five  
9 hours of community service work, and an eight to twelve hour  
10 program of alcohol education and counseling the costs of which  
11 shall be borne by the offender or the offender's parent or  
12 guardian.

13 (e) As used in this section[, ~~"consume"~~]:

14 "Consume" or "consumption" includes the ingestion of  
15 liquor.

16 "Restricted person" has the same meaning as in section  
17 712-1250.5."

18 SECTION 3. Section 286-103, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 **"§286-103 Restrictions on driver's license; rules and**  
21 **regulations. (a)** The examiner of drivers may adopt rules and





1 regulations restricting the use of a driver's license in any  
2 manner the examiner of drivers may deem necessary for the safety  
3 and welfare of the traveling public and may impose restrictions  
4 with respect to the type of equipment or special mechanical  
5 control devices required on the motor vehicle operated by the  
6 licensee appropriate to the driving ability of the licensee.

7 Any restrictions shall be indicated on the license issued.

8 (b) The examiner of drivers shall adopt rules restricting  
9 the use of a driver's license issued to a person prohibited from  
10 purchasing or publicly consuming liquor during the probation  
11 period invoked pursuant to section 291E-61 or 291E-61.5. A  
12 license subject to this subsection shall bear the notation  
13 "Liquor Restricted" and shall not be accepted as a valid form of  
14 identification for the purchase of liquor. A driver's license  
15 that bears the notation "Liquor Restricted" shall expire no  
16 later than the date upon which the probation period expires, as  
17 determined by the court."

18 SECTION 4. Section 286-106, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "§286-106 Expiration of licenses. Every driver's license  
21 issued under this part, except for a provisional license issued



1 under section 286-102.6 which shall expire on the date of the  
2 provisional licensee's nineteenth birthday, whether an original  
3 issuance or a renewal, shall expire on the first birthday of the  
4 licensee occurring [~~not~~] no less than eight years after the date  
5 of the issuance of the license, unless sooner revoked or  
6 suspended; provided that:

7 (1) The license shall expire on the first birthday of the  
8 licensee occurring [~~not~~] no less than four years after  
9 the date of the issuance if, at the time, the licensee  
10 is twenty-four years of age or younger;

11 (2) The license shall expire on the first birthday of the  
12 licensee occurring [~~not~~] no less than two years after  
13 the date of the issuance of the license if, at that  
14 time, the licensee is seventy-two years of age or  
15 older; [~~and~~]

16 (3) If the licensee is a legal immigrant, the license  
17 shall expire no later than the licensee's authorized  
18 period of stay in the United States[-]; and

19 (4) A license that bears the notation "Liquor Restricted"  
20 issued to any person prohibited from purchasing or  
21 publicly consuming liquor during a probation period



1           that commences on the date that revocation of the  
2           person's driver's license for violation of section  
3           291E-61 or section 291E-61.5 became effective shall  
4           expire no later than the date of expiration of the  
5           probation period, as determined by the court.

6           The examiner of drivers may issue a license for a shorter  
7           period if the licensee has a physical condition or conditions  
8           that the examiner of drivers reasonably believes may impair the  
9           driver's ability to drive."

10          SECTION 5. Section 286-305, Hawaii Revised Statutes, is  
11          amended to read as follows:

12          "**§286-305 Contents and characteristics; form.** (a) Each  
13          identification card issued by the examiner of drivers shall  
14          display a distinguishing number assigned to the cardholder, and  
15          shall display the following inscription:

16                       "STATE OF HAWAII IDENTIFICATION CARD"

17          (b) The examiner of drivers, after obtaining the  
18          fingerprint of the applicant as provided in this part and after  
19          obtaining the information required by or pursuant to this part,  
20          shall issue to each applicant an identification card in a form  
21          and with identifying information that the director deems



1 necessary and appropriate, including a notation of veteran  
2 status, if desired by the applicant, on the front of the card  
3 where applicable; provided that such notation shall not include  
4 any designation other than the term "veteran". As used in this  
5 subsection, "veteran" means any person who served in any of the  
6 uniformed services of the United States and was discharged under  
7 conditions other than dishonorable.

8 (c) The identification card shall not display the  
9 cardholder's social security number.

10 (d) The identification card shall be designed to prevent  
11 its reproduction or alteration without ready detection.

12 (e) The identification card for individuals under twenty-  
13 one years of age shall have characteristics prescribed by the  
14 examiner distinguishing it from that issued to [a] an individual  
15 who is twenty-one years of age or older.

16 (f) An identification card issued to an individual who has  
17 been convicted for a violation of section 291E-61 or 291E-61.5  
18 and prohibited from purchasing or publicly consuming liquor  
19 shall bear the notation "Liquor Restricted". The identification  
20 card shall be valid for a probation period, commencing on the  
21 date of conviction. The issuance of an identification card



1 pursuant to this subsection shall invalidate any prior  
2 identification card issued to the individual that does not bear  
3 the notation required by this subsection, regardless of the date  
4 of expiration listed on the identification card. An  
5 identification card issued pursuant to this subsection shall not  
6 be valid identification for the purchase of liquor."

7 SECTION 6. Section 287-20, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9 "(a) Whenever a driver's license has been suspended or  
10 revoked:

11 (1) Pursuant to section 291E-65 or part III of chapter  
12 291E, except as provided in section [~~291E-41(f);~~]  
13 291E-41(g);

14 (2) Upon a conviction of any offense pursuant to law,  
15 except where the conduct giving rise to the instant  
16 offense is also a violation of part III of chapter  
17 291E and a requirement to furnish and maintain proof  
18 of financial responsibility has already been imposed  
19 pursuant to that part; or

20 (3) In the case of minors, pursuant to part V of chapter  
21 571,



1 the license shall not at any time thereafter be issued to the  
2 person whose license has been suspended or revoked, nor shall  
3 the person thereafter operate a motor vehicle, unless and until  
4 the person has furnished and thereafter maintains proof of  
5 financial responsibility; provided that this section shall not  
6 apply to a license suspended or revoked pursuant to section  
7 291E-61(b)(1) or 291E-64(b)(1), any conviction of a moving  
8 violation, any administrative license suspension pursuant to  
9 chapter 291A, or the first conviction within a five-year period  
10 for driving without a valid motor vehicle insurance policy.

11 This subsection shall not apply to a suspension or  
12 revocation of a provisional license under section 286-102.6(d)."

13 SECTION 7. Section 291E-34, Hawaii Revised Statutes, is  
14 amended as follows:

15 1. By amending subsection (e) to read:

16 "(e) The notice shall state that, if the respondent's  
17 license and privilege to operate a vehicle is administratively  
18 revoked after the review, a decision shall be mailed to the  
19 respondent, or to the parent or guardian of the respondent if  
20 the respondent is under the age of eighteen, that shall contain,  
21 at a minimum, the following information:



- 1 (1) The reasons why the respondent's license and privilege  
2 to operate a vehicle is administratively revoked;
- 3 (2) That the respondent may request the director, within  
4 six days of the date the decision is mailed, to  
5 schedule an administrative hearing to review the  
6 administrative revocation;
- 7 (3) That, if the respondent's request for an  
8 administrative hearing is received by the director  
9 within six days of the date the decision was mailed,  
10 the hearing shall be scheduled to commence:
- 11 (A) No later than twenty-five days after the date of  
12 the issuance of the notice of administrative  
13 revocation in the case of an alcohol related  
14 offense; and
- 15 (B) No later than thirty-nine days after the date of  
16 the issuance of the notice of administrative  
17 revocation in the case of a drug related offense;
- 18 (4) The procedure to request an administrative hearing;
- 19 (5) That failure to request an administrative hearing  
20 within the time provided shall cause the  
21 administrative revocation to take effect for the



1 period and under the conditions established by the  
2 director in the decision;

3 (6) That the respondent may regain the right to a hearing  
4 by requesting the director, within sixty days after  
5 the issuance of the notice of administrative  
6 revocation, to schedule a hearing;

7 (7) That the director shall schedule the hearing to  
8 commence no later than thirty days after a request  
9 under paragraph (6) is received, but that, except as  
10 provided in section 291E-38(j), the temporary permit  
11 shall not be extended if the respondent fails to  
12 request an administrative hearing within the initial  
13 six-day period provided for that purpose;

14 (8) That failure to attend the hearing shall cause the  
15 administrative revocation to take effect for the  
16 period and under the conditions indicated;

17 (9) The duration of the administrative revocation and  
18 other conditions that may be imposed, including[+]   
19 referral to the driver's education program for an  
20 assessment of the respondent's substance abuse or  
21 dependence and the need for treatment; [and]





1 (10) That the respondent shall obtain an ignition interlock  
2 permit in order to operate a vehicle during the  
3 revocation period if the respondent had a valid  
4 license at the time of the arrest[-]; and

5 (11) That the respondent shall be prohibited from  
6 purchasing or publicly consuming liquor for a  
7 probation period commencing on the date that the  
8 administrative revocation of the respondent's license  
9 becomes effective."

10 2. By amending subsection (h) to read:

11 "(h) The notice shall state that, if the administrative  
12 revocation is sustained at the hearing, a written decision shall  
13 be mailed to the respondent, or to the parent or guardian of the  
14 respondent if the respondent is under the age of eighteen, that  
15 shall contain, at a minimum, the following information:

- 16 (1) The effective date of the administrative revocation;  
17 (2) The duration of the administrative revocation;  
18 (3) Other conditions that may be imposed by law, including  
19 the use of an ignition interlock device[-] and a  
20 probation period prohibiting the purchase or public  
21 consumption of liquor; and



1 (4) The right to obtain judicial review."

2 SECTION 8. Section 291E-41, Hawaii Revised Statutes, is  
3 amended to read as follows:

4 "§291E-41 Effective date, conditions, and period of  
5 administrative revocation; criteria. (a) Unless an  
6 administrative revocation is reversed or the temporary permit is  
7 extended by the director, administrative revocation shall become  
8 effective on the day specified in the notice of administrative  
9 revocation. Except as provided in section 291E-44.5, no license  
10 and privilege to operate a vehicle shall be restored under any  
11 circumstances during the administrative revocation period. Upon  
12 completion of the administrative revocation period, the  
13 respondent may reapply and be reissued a license pursuant to  
14 section 291E-45.

15 (b) Except as provided in paragraph (5) and in section  
16 291E-44.5, the respondent shall keep an ignition interlock  
17 device installed and operating in any vehicle the respondent  
18 operates during the revocation period. Except as provided in  
19 section 291E-5, installation and maintenance of the ignition  
20 interlock device shall be at the respondent's expense. The  
21 periods of administrative revocation, with respect to a license



1 and privilege to operate a vehicle, that shall be imposed under  
2 this part are as follows:

3 (1) A one year revocation of license and privilege to  
4 operate a vehicle, if the respondent's record shows no  
5 prior alcohol enforcement contact or drug enforcement  
6 contact during the five years preceding the date the  
7 notice of administrative revocation was issued;

8 (2) An eighteen month revocation of license and privilege  
9 to operate a vehicle, if the respondent's record shows  
10 one prior alcohol enforcement contact or drug  
11 enforcement contact during the five years preceding  
12 the date the notice of administrative revocation was  
13 issued;

14 (3) A two-year revocation of license and privilege to  
15 operate a vehicle, if the respondent's record shows  
16 two prior alcohol enforcement contacts or drug  
17 enforcement contacts during the five years preceding  
18 the date the notice of administrative revocation was  
19 issued;

20 (4) A minimum of five years up to a maximum of ten years  
21 revocation of license and privilege to operate a



1 vehicle, if the respondent's record shows three or  
2 more prior alcohol enforcement contacts or drug  
3 enforcement contacts during the ten years preceding  
4 the date the notice of administrative revocation was  
5 issued;

- 6 (5) For respondents under the age of eighteen years who  
7 were arrested for a violation of section 291E-61 or  
8 291E-61.5, revocation of license and privilege to  
9 operate a vehicle for the appropriate revocation  
10 period provided in paragraphs (1) to (4) or in  
11 subsection (c); provided that the respondent shall be  
12 prohibited from driving during the period preceding  
13 the respondent's eighteenth birthday and shall  
14 thereafter be subject to the ignition interlock  
15 requirement of this subsection for the balance of the  
16 revocation period; or
- 17 (6) For respondents, other than those excepted pursuant to  
18 section 291E-44.5(c), who do not install an ignition  
19 interlock device in any vehicle the respondent  
20 operates during the revocation period, revocation of  
21 license and privilege to operate a vehicle for the



1 period of revocation provided in paragraphs (1) to (5)  
2 or in subsection (c); provided that:

3 (A) The respondent shall be absolutely prohibited  
4 from driving during the revocation period and  
5 subject to the penalties provided by section  
6 291E-62 if the respondent drives during the  
7 revocation period; and

8 (B) The director shall not issue an ignition  
9 interlock permit to the respondent pursuant to  
10 section 291E-44.5;

11 provided that when more than one administrative revocation,  
12 suspension, or conviction arises out of the same arrest, it  
13 shall be counted as only one prior alcohol enforcement contact  
14 or drug enforcement contact, whichever revocation, suspension,  
15 or conviction occurs later.

16 (c) If a respondent has refused to be tested after being  
17 informed:

18 (1) That the person may refuse to submit to testing in  
19 compliance with section 291E-11; and

20 (2) Of the sanctions of this part and then asked if the  
21 person still refuses to submit to a breath, blood, or



1           urine test, in compliance with the requirements of  
2           section 291E-15,  
3   the revocation imposed under subsection (b)(1), (2), (3), or (4)  
4   shall be for a period of two years, three years, four years, or  
5   ten years, respectively.

6           (d) Whenever a license and privilege to operate a vehicle  
7   is administratively revoked under this part, the respondent  
8   shall be referred to the driver's education program for an  
9   assessment, by a certified substance abuse counselor, of the  
10   respondent's substance abuse or dependence and the need for  
11   treatment. The counselor shall submit a report with  
12   recommendations to the director. If the counselor's assessment  
13   establishes that the extent of the respondent's substance abuse  
14   or dependence warrants treatment, the director shall so order.  
15   All costs for assessment and treatment shall be paid by the  
16   respondent.

17           (e) Whenever a license and privilege to operate a vehicle  
18   is administratively revoked under this part, the respondent  
19   shall be prohibited from purchasing or publicly consuming liquor  
20   for a probation period commencing on the date the administrative  
21   revocation becomes effective and expiring on a date to be



1 determined by the court. Any driver's license, identification  
2 card, ignition interlock permit, or special permit issued by a  
3 court pursuant to section 291E-61 or the director pursuant to  
4 section 291E-44.5 to the respondent during the probation period  
5 authorizing the respondent to operate a vehicle owned by the  
6 respondent's employer shall bear the notation "Liquor  
7 Restricted" and shall not be accepted as a valid form of  
8 identification for the purchase of liquor.

9       ~~[(e)]~~ (f) Alcohol and drug enforcement contacts that  
10 occurred prior to January 1, 2002, shall be counted in  
11 determining the administrative revocation period.

12       ~~[(f)]~~ (g) The requirement to provide proof of financial  
13 responsibility pursuant to section 287-20 shall not be based  
14 upon a revocation under subsection (b)(1)."

15       SECTION 9. Section 291E-44.5, Hawaii Revised Statutes, is  
16 amended as follows:

17       1. By amending subsection (a) to read:

18       "(a) Except as provided in subsection (b), upon proof that  
19 the respondent has installed an ignition interlock device in any  
20 vehicle the respondent operates and obtained motor vehicle  
21 insurance or self-insurance that complies with the requirements



1 of section 431:10C-104 or 431:10C-105, the director shall issue  
2 an ignition interlock permit that will allow the respondent to  
3 drive a vehicle equipped with an ignition interlock device  
4 during the revocation period. An ignition interlock permit  
5 shall bear the notation "Liquor Restricted" and shall not be  
6 accepted as a valid form of identification for the purchase of  
7 liquor."

8 2. By amending subsection (c) to read:

9 "(c) Except as provided in subsection (b), the director  
10 may issue a separate permit authorizing a respondent to operate  
11 a vehicle owned by the respondent's employer during the period  
12 of revocation without installation of an ignition interlock  
13 device if the respondent is gainfully employed in a position  
14 that requires driving and the respondent will be discharged if  
15 prohibited from driving a vehicle not equipped with an ignition  
16 interlock device. A separate permit issued pursuant to this  
17 subsection shall bear the notation "Liquor Restricted" and shall  
18 not be accepted as a valid form of identification for the  
19 purchase of liquor."

20 SECTION 10. Section 291E-45, Hawaii Revised Statutes, is  
21 amended by amending subsection (a) to read as follows:





1       "(a) To be eligible for relicensing or renewing the  
2 privilege to operate a vessel after a period of administrative  
3 revocation has expired, the person shall:

4       (1) Submit proof to the director of compliance with all  
5 conditions imposed by the director;

6       (2) Obtain a certified statement from the director  
7 indicating eligibility for relicensing and for  
8 renewing the privilege to operate a vessel;

9       (3) Present the certified statement to the appropriate  
10 licensing official or to the department of land and  
11 natural resources, as applicable; and

12       (4) Successfully complete each requirement, including  
13 payment of all applicable fees, for:

14       (A) Obtaining a new license in this State, pursuant  
15 to chapter 286; or

16       (B) Renewing the privilege to operate a vessel, as  
17 may be provided in chapter 200 or rules adopted  
18 by the department of land and natural resources  
19 pursuant to section 200-24.

20       Any license issued or renewed pursuant to this subsection  
21 during the probation period that commences on the date the



1 administrative revocation of the person's license became  
2 effective shall bear the notation "Liquor Restricted" and shall  
3 not be accepted as a valid form of identification for the  
4 purchase of liquor. A license that bears the notation "Liquor  
5 Restricted" shall expire on the date upon which the probation  
6 period expires, as determined by the court."

7 SECTION 11. Section 291E-61, Hawaii Revised Statutes, is  
8 amended as follows:

9 1. By amending subsection (b) to read:

10 "(b) A person committing the offense of operating a  
11 vehicle under the influence of an intoxicant shall be sentenced  
12 without possibility of probation or suspension of sentence as  
13 follows:

14 (1) For the first offense, or any offense not preceded  
15 within a [~~five-year~~] ten-year period by a conviction  
16 for an offense under this section or section  
17 291E-4 (a) :

18 (A) A fourteen-hour minimum substance abuse  
19 rehabilitation program, including education and  
20 counseling, or other comparable program deemed  
21 appropriate by the court;



- 1 (B) One-year revocation of license and privilege to  
2 operate a vehicle during the revocation period  
3 and installation during the revocation period of  
4 an ignition interlock device on any vehicle  
5 operated by the person;
- 6 (C) Any one or more of the following:
- 7 (i) Seventy-two hours of community service work;
- 8 (ii) ~~[Not]~~ No less than forty-eight hours and not  
9 more than five days of imprisonment; or
- 10 (iii) A fine of ~~[not]~~ no less than ~~[\$150]~~ \$250 but  
11 ~~[not]~~ no more than \$1,000;
- 12 (D) A surcharge of \$25 to be deposited into the  
13 neurotrauma special fund; ~~[and]~~
- 14 (E) A surcharge, if the court so orders, of up to \$25  
15 to be deposited into the trauma system special  
16 fund; and
- 17 (F) A probation period, commencing on the effective  
18 date of the license revocation period under  
19 subparagraph (B) and expiring on a date to be  
20 determined by the court, prohibiting the purchase



1                    or public consumption of liquor by the person, if  
2                    deemed appropriate by the court;

3            (2) For an offense that occurs within [~~five~~] ten years of  
4            a prior conviction for an offense under this section  
5            or section 291E-4(a):

6            (A) Revocation for not less than [~~eighteen~~] twenty-  
7            four months nor more than [~~two~~] three years of  
8            license and privilege to operate a vehicle during  
9            the revocation period and installation during the  
10           revocation period of an ignition interlock device  
11           on any vehicle operated by the person;

12           (B) Either one of the following:

13           (i) [~~Not~~] No less than two hundred forty hours  
14           of community service work; or

15           (ii) [~~Not~~] No less than five days but [~~not~~] no  
16           more than thirty days of imprisonment, of  
17           which at least forty-eight hours shall be  
18           served consecutively;

19           (C) A fine of [~~not~~] no less than [~~\$500~~] \$1,000 but  
20           [~~not~~] no more than [~~\$1,500,~~] \$3,000;



1 (D) A surcharge of \$25 to be deposited into the  
2 neurotrauma special fund; ~~and~~

3 (E) A surcharge of up to \$50, if the court so orders,  
4 to be deposited into the trauma system special  
5 fund; and

6 (F) A probation period, commencing on the effective  
7 date of the license revocation period under  
8 subparagraph (A) and expiring on a date to be  
9 determined by the court, prohibiting the purchase  
10 or public consumption of liquor by the person, if  
11 deemed appropriate by the court;

12 ~~[-(3) For an offense that occurs within five years of two~~  
13 ~~prior convictions for offenses under this section or~~  
14 ~~section 291E-4(a):~~

15 ~~-(A) A fine of not less than \$500 but not more than~~  
16 ~~\$2,500;~~

17 ~~-(B) Revocation for two years of license and privilege~~  
18 ~~to operate a vehicle during the revocation period~~  
19 ~~and installation during the revocation period of~~  
20 ~~an ignition interlock device on any vehicle~~  
21 ~~operated by the person;~~



1 ~~(C) Not less than ten days but not more than thirty~~  
2 ~~days imprisonment, of which at least forty eight~~  
3 ~~hours shall be served consecutively,~~

4 ~~(D) A surcharge of \$25 to be deposited into the~~  
5 ~~neurotrauma special fund; and~~

6 ~~(E) A surcharge of up to \$50 if the court so orders,~~  
7 ~~to be deposited into the trauma system special~~  
8 ~~fund;~~

9 ~~(4)]~~ (3) In addition to a sentence imposed under  
10 paragraphs (1) [~~through (3),~~] and (2), any person  
11 eighteen years of age or older who is convicted under  
12 this section and who operated a vehicle with a  
13 passenger, in or on the vehicle, who was younger than  
14 fifteen years of age, shall be sentenced to an  
15 additional mandatory fine of \$500 and an additional  
16 mandatory term of imprisonment of forty-eight hours;  
17 provided that the total term of imprisonment for a  
18 person convicted under this paragraph shall not exceed  
19 the maximum term of imprisonment provided in paragraph  
20 (1) [~~7~~] or (2), [~~or (3),~~] as applicable.  
21 Notwithstanding paragraphs (1) and (2), the revocation



1 period for a person sentenced under this paragraph  
2 shall be ~~[not]~~ no less than two years; and

3 ~~[(+5)]~~ (4) If the person demonstrates to the court that the  
4 person:

5 (A) Does not own or have the use of a vehicle in  
6 which the person can install an ignition  
7 interlock device during the revocation period; or

8 (B) Is otherwise unable to drive during the  
9 revocation period,

10 the person shall be absolutely prohibited from driving during  
11 the period of applicable revocation provided in paragraphs (1)  
12 to ~~[(+4)]~~ (3); provided that the court shall not issue an  
13 ignition interlock permit pursuant to subsection (i) and the  
14 person shall be subject to the penalties provided by section  
15 291E-62 if the person drives during the applicable revocation  
16 period."

17 2. By amending subsection (d) to read:

18 "(d) Except as provided in subsection (c), the court may  
19 issue a separate permit authorizing a defendant to operate a  
20 vehicle owned by the defendant's employer during the period of  
21 revocation without installation of an ignition interlock device



1 if the defendant is gainfully employed in a position that  
2 requires driving and the defendant will be discharged if  
3 prohibited from driving a vehicle not equipped with an ignition  
4 interlock device. Any separate permit issued pursuant to this  
5 subsection to a person prohibited from purchasing or publicly  
6 consuming liquor during the probation period that commences on  
7 the effective date of the administrative revocation of the  
8 person's license shall bear the notation "Liquor Restricted" and  
9 shall not be accepted as a valid form of identification for the  
10 purchase of liquor. A separate permit that bears the notation  
11 "Liquor Restricted" shall expire no later than the date upon  
12 which the probation period expires, as determined by the court."

13 3. By amending subsection (j) to read:

14 "(j) Notwithstanding any other law to the contrary,  
15 whenever a court revokes a person's driver's license pursuant to  
16 this section, the examiner of drivers shall not grant to the  
17 person a new driver's license until the expiration of the period  
18 of revocation determined by the court. After the period of  
19 revocation is completed, the person may apply for and the  
20 examiner of drivers may grant to the person a new driver's  
21 license. Any new driver's license granted pursuant to this





1 subsection to a person prohibited from purchasing or publicly  
2 consuming liquor during the probation period that commences on  
3 the effective date of the administrative revocation of the  
4 person's license shall bear the notation "Liquor Restricted" and  
5 shall not be accepted as a valid form of identification for the  
6 purchase of liquor. A driver's license that bears the notation  
7 "Liquor Restricted" shall expire no later than the date upon  
8 which the probation period expires, as determined by the court."

9 SECTION 12. Section 291E-61.5, Hawaii Revised Statutes, is  
10 amended as follows:

11 1. By amending subsection (b) to read:

12 "(b) For the purposes of this section:

13 (1) "Convicted [~~three~~] two or more times for offenses of  
14 operating a vehicle under the influence" means that,  
15 at the time of the behavior for which the person is  
16 charged under this section, the person had [~~three~~] two  
17 or more times [~~within ten years of the instant~~  
18 offense]:

19 (A) A judgment on a verdict or a finding of guilty,  
20 or a plea of guilty or nolo contendere, for a  
21 violation of section 291-4, 291-4.4, or 291-7 as



1           those sections were in effect on December 31,  
2           2001, or section 291E-61 or 707-702.5;

3           (B) A judgment on a verdict or a finding of guilty,  
4           or a plea of guilty or nolo contendere, for an  
5           offense that is comparable to section 291-4,  
6           291-4.4, or 291-7 as those sections were in  
7           effect on December 31, 2001, or section 291E-61  
8           or 707-702.5; or

9           (C) An adjudication of a minor for a law or probation  
10          violation that, if committed by an adult, would  
11          constitute a violation of section 291-4, 291-4.4,  
12          or 291-7 as those sections were in effect on  
13          December 31, 2001, or section 291E-61 or  
14          707-702.5,

15         that, at the time of the instant offense, had not been  
16         expunged by pardon, reversed, or set aside. All  
17         convictions that have been expunged by pardon,  
18         reversed, or set aside prior to the instant offense  
19         shall not be deemed prior convictions for the purposes  
20         of proving that the person is a habitual operator of a  
21         vehicle while under the influence of an intoxicant.



1 (2) "Convicted one or more times for offenses of  
2 habitually operating a vehicle under the influence"  
3 means that, at the time of the behavior for which the  
4 person is charged under this section, the person had  
5 one or more times [~~within ten years of the instant~~  
6 ~~offense~~]:

7 (A) A judgment on a verdict or a finding of guilty,  
8 or a plea of guilty or nolo contendere, for a  
9 violation of this section or section 291-4.4 as  
10 that section was in effect on December 31, 2001;

11 (B) A judgment on a verdict or a finding of guilty,  
12 or a plea of guilty or nolo contendere, for an  
13 offense that is comparable to this section or  
14 section 291-4.4 as that section was in effect on  
15 December 31, 2001; or

16 (C) An adjudication of a minor for a law or probation  
17 violation that, if committed by an adult, would  
18 constitute a violation of this section or section  
19 291-4.4 as that section was in effect on  
20 December 31, 2001,



1 that, at the time of the instant offense, had not been  
2 expunged by pardon, reversed, or set aside. All  
3 convictions that have been expunged by pardon,  
4 reversed, or set aside prior to the instant offense  
5 shall not be deemed prior convictions for the purposes  
6 of proving the person's status as a habitual operator  
7 of a vehicle while under the influence of an  
8 intoxicant.

9 (3) "Habitual operator of a vehicle while under the  
10 influence of an intoxicant" means that the person:

11 (A) Was convicted [~~three~~] two or more times for  
12 offenses of operating a vehicle under the  
13 influence; or

14 (B) Was convicted one or more times for offenses of  
15 habitually operating a vehicle under the  
16 influence."

17 2. By amending subsection (d) to read:

18 "(d) For a conviction under this section, the sentence  
19 shall be either:

20 (1) An indeterminate term of imprisonment of five years;  
21 or



1 (2) A term of probation of five years, with conditions to  
2 include:

3 (A) Mandatory revocation of license and privilege to  
4 operate a vehicle for a period [~~not~~] no less than  
5 [~~one year~~] three years but [~~not~~] no more than  
6 five years;

7 (B) [~~Not~~] No less than ten days imprisonment, of  
8 which at least forty-eight hours shall be served  
9 consecutively;

10 (C) A fine of no less than \$2,000 but no more than  
11 \$5,000;

12 [~~(C)~~] (D) Referral to a certified substance abuse  
13 counselor as provided in section 291E-61(d);

14 [~~(D)~~] (E) A surcharge of \$25 to be deposited into the  
15 neurotrauma special fund; and

16 [~~(E)~~] (F) May be charged a surcharge of up to \$50 to  
17 be deposited into the trauma system special fund  
18 if the court so orders.

19 In addition to the foregoing, any vehicle owned and operated by  
20 the person committing the offense shall be subject to forfeiture  
21 pursuant to chapter 712A[7]; provided that the department of



1 transportation shall provide storage for vehicles forfeited  
2 under this subsection. In addition to all other penalties  
3 provided, any person convicted under this section shall be  
4 prohibited, for a probation period commencing on the effective  
5 date of the license revocation period under subparagraph (A) and  
6 expiring on a date to be determined by the court, from  
7 purchasing or publicly consuming liquor, if deemed appropriate  
8 by the court."

9 3. By amending subsection (f) to read:

10 "(f) Notwithstanding any other law to the contrary,  
11 whenever a court revokes a person's driver's license pursuant to  
12 this section, the examiner of drivers shall not grant to the  
13 person a new driver's license until expiration of the period of  
14 revocation determined by the court. After the period of  
15 revocation is complete, the person may apply for and the  
16 examiner of drivers may grant to the person a new driver's  
17 license. Any new driver's license granted pursuant to this  
18 subsection to a person prohibited from purchasing or publicly  
19 consuming liquor during the probation period that commences on  
20 the effective date of the administrative revocation of the  
21 person's license shall bear the notation "Liquor Restricted" and



1 shall not be accepted as a valid form of identification for the  
2 purchase of liquor. A driver's license that bears the notation  
3 "Liquor Restricted" shall expire no later than the date upon  
4 which the probation period expires, as determined by the court."

5 SECTION 13. Section 291E-61.6, Hawaii Revised Statutes, is  
6 amended as follows:

7 1. By amending subsection (b) to read:

8 "(b) Any person under subsection (a) may file a petition  
9 in the district court for permission to apply for an ignition  
10 interlock instruction permit that will allow the person to take  
11 the driving demonstration portion of the driver's license  
12 examination. The petition shall be filed with the clerk of the  
13 district court in the district in which the arrest occurred and  
14 shall be accompanied by the required filing fee for civil  
15 actions. The petition shall include the following:

- 16 (1) A certified court abstract establishing that other  
17 than the instant offense, the petitioner has no  
18 pending traffic matters, outstanding fines,  
19 outstanding court costs, and outstanding restitution;  
20 (2) A certified statement from the director establishing  
21 that the petitioner has complied with all



1 requirements, including payment of applicable fees,  
2 undergone substance abuse assessment and treatment,  
3 and surrendered motor vehicle registration and vehicle  
4 number plates, if applicable; and

5 (3) A proposed order.

6 In determining whether the petitioner may be granted an ignition  
7 interlock instruction permit, the district court shall consider  
8 whether the requirements of paragraphs (1) through (3) are met  
9 and may also consider any other factors, including but not  
10 limited to the petitioner's criminal and traffic record after  
11 receiving a lifetime license revocation, and based on the  
12 foregoing, the district court shall determine whether an order  
13 allowing the petitioner to apply to the director for an ignition  
14 interlock instruction permit and requiring the director to  
15 remove any stopper placed on the petitioner's motor vehicle  
16 registration files pursuant to part III of chapter 291E, as  
17 applicable, shall be issued; provided that the petitioner  
18 complies with applicable driver licensing requirements under  
19 part VI of chapter 286, and proof of financial responsibility  
20 under chapter 287. Upon submission of the order to the  
21 director, the director shall remove any stopper placed on the





1 person's motor vehicle registration files and issue a certified  
2 statement indicating eligibility for an ignition interlock  
3 instruction permit.

4 Any ignition interlock instruction permit issued pursuant  
5 to this subsection to a person prohibited from purchasing or  
6 publicly consuming liquor during the probation period that  
7 commences on the effective date of the administrative revocation  
8 of the person's license shall bear the notation "Liquor  
9 Restricted" and shall not be accepted as a valid form of  
10 identification for the purchase of liquor. An ignition  
11 interlock instruction permit that bears the notation "Liquor  
12 Restricted" shall expire no later than the date upon which the  
13 probation period expires, as determined by the court."

14 2. By amending subsection (d) to read:

15 "(d) Upon showing the ignition interlock instruction  
16 permit to the examiner of drivers, an applicant may take the  
17 driving demonstration portion of the driver's license  
18 examination in accordance with section 286-108. Upon successful  
19 completion of the driving demonstration portion of the driver's  
20 license examination, an applicant may apply to the director for  
21 an ignition interlock permit pursuant to section 291E-44.5. If



1 granted, the ignition interlock permit shall expire as provided  
2 in this section and section 286-106 or upon the end of the  
3 revocation period, whichever occurs first.

4 Any ignition interlock permit issued pursuant to this  
5 subsection to a person prohibited from purchasing or publicly  
6 consuming liquor during the probation period that commences on  
7 the effective date of the administrative revocation of the  
8 person's license shall bear the notation "Liquor Restricted" and  
9 shall not be accepted as a valid form of identification for the  
10 purchase of liquor. An ignition interlock permit that bears the  
11 notation "Liquor Restricted" shall expire no later than the date  
12 upon which the probation period expires, as determined by the  
13 court."

14 SECTION 14. Section 291E-62, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16 "(a) No person whose license and privilege to operate a  
17 vehicle have been revoked, suspended, or otherwise restricted  
18 pursuant to this section or to part III or section 291E-61 or  
19 291E-61.5, or to part VII or part XIV of chapter 286 or section  
20 200-81, 291-4, 291-4.4, 291-4.5, or 291-7 as those provisions



1 were in effect on December 31, 2001, shall operate or assume  
2 actual physical control of any vehicle:

3 (1) In violation of any restrictions placed on the  
4 person's license;

5 (2) While the person's license or privilege to operate a  
6 vehicle remains suspended or revoked;

7 (3) Without installing an ignition interlock device  
8 required by this chapter; or

9 (4) With an ignition interlock permit unless the person  
10 has the ignition interlock permit [~~and a valid State~~  
11 ~~of Hawaii identification card~~] in the person's  
12 immediate possession."

13 SECTION 15. Section 712-1250.5, Hawaii Revised Statutes,  
14 is amended to read as follows:

15 "§712-1250.5 Promoting intoxicating liquor to a person  
16 under the age of twenty-one[-] or a restricted person. (1) A  
17 person, including any licensee as defined in section 281-1,  
18 commits the offense of promoting intoxicating liquor to a person  
19 under the age of twenty-one or a restricted person if the person  
20 recklessly:



1 (a) Sells or offers for sale, influences the sale, serves,  
2 delivers, or gives to a person intoxicating liquor,  
3 and the person receiving the intoxicating liquor is a  
4 person under the age of twenty-one[?] or a restricted  
5 person; or

6 (b) Permits a person to possess intoxicating liquor while  
7 on property under [~~his~~] the person's control, and the  
8 person possessing the intoxicating liquor is a person  
9 under the age of twenty-one[?] or a restricted person.

10 (2) It is a defense to a prosecution for promoting  
11 intoxicating liquor to a person under the age of twenty-one or a  
12 restricted person that:

13 (a) The intoxicating liquor provided to the person under  
14 the age of twenty-one or restricted person was an  
15 ingredient in a medicine prescribed by a licensed  
16 physician for medical treatment of the person under  
17 the age of twenty-one[?] or restricted person;

18 (b) The intoxicating liquor was provided to the person  
19 under the age of twenty-one or restricted person as  
20 part of a ceremony of a recognized religion;



1 (c) The defendant provided the intoxicating liquor to the  
2 person under the age of twenty-one or restricted  
3 person with the belief, which was reasonable under the  
4 circumstances, that the person under the age of  
5 twenty-one had attained the age of twenty-one[+] or  
6 was not a restricted person;

7 (d) The defendant provided the intoxicating liquor to the  
8 person under the age of twenty-one with the express  
9 consent of the parent or legal guardian and with the  
10 belief, which was reasonable under the circumstances,  
11 that the person under the age of twenty-one would not  
12 consume any portion of the substance;

13 (e) The defendant provided the intoxicating liquor to the  
14 person under the age of twenty-one with the express  
15 consent of the parent or legal guardian and with the  
16 belief, which was reasonable under the circumstances,  
17 that the person under the age of twenty-one would  
18 consume the substance only in the presence of the  
19 parent or legal guardian; or



1 (f) The intoxicating liquor was possessed by the person  
2 under the age of twenty-one or restricted person to be  
3 sold or served as allowed by law.

4 (3) The fact that a person engaged in the conduct  
5 specified by this section is prima facie evidence that the  
6 person engaged in that conduct with knowledge of the character,  
7 nature, and quantity of the intoxicating liquor possessed,  
8 distributed, or sold.

9 The fact that the defendant distributed or sold  
10 intoxicating liquor to a person under the age of twenty-one or a  
11 restricted person is prima facie evidence that the defendant  
12 knew the transferee was a person under the age of twenty-one[7]  
13 or a restricted person except as provided in subsection (2)(c).

14 (4) Promoting intoxicating liquor to a person under the  
15 age of twenty-one or a restricted person is a misdemeanor.

16 (5) For purposes of this section, "restricted person"  
17 means a person who holds any driver's license, identification  
18 card, ignition interlock permit, or special permit that bears  
19 the notation "Liquor Restricted" due to conviction or  
20 administrative license revocation for violation of section 291E-  
21 61 or section 291E-61.5."



1       SECTION 16. Section 712-1252, Hawaii Revised Statutes, is  
2 amended to read as follows:

3       "§712-1252 Knowledge of character, nature, or quantity of  
4 substance, or character or age of transferee; prima facie  
5 evidence. (1) The fact that a person engaged in the conduct  
6 specified by any section in this part is prima facie evidence  
7 that the person engaged in that conduct with knowledge of the  
8 character, nature, and quantity of the dangerous drug, harmful  
9 drug, detrimental drug, or intoxicating compounds possessed,  
10 distributed, or sold.

11       (2) The fact that the defendant distributed or sold a  
12 dangerous drug, harmful drug, detrimental drug, or intoxicating  
13 compound to a minor or a restricted person is prima facie  
14 evidence that the defendant knew the transferee to be a minor[-]  
15 or a restricted person.

16       (3) For purposes of this section, "restricted person" has  
17 the same meaning as in section 712-1250.5."

18       SECTION 17. This Act does not affect rights and duties  
19 that matured, penalties that were incurred, and proceedings that  
20 were begun before its effective date.



1       SECTION 18. If any provision of this Act, or the  
2 application thereof to any person or circumstance, is held  
3 invalid, the invalidity does not affect other provisions or  
4 applications of the Act that can be given effect without the  
5 invalid provision or application, and to this end the provisions  
6 of this Act are severable.

7       SECTION 19. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9       SECTION 20. This Act shall take effect on January 28,  
10 2081.





**Report Title:**

Intoxicating Liquor; Operating a Vehicle Under the Influence

**Description:**

Prohibits any person convicted of Operating a Vehicle Under the Influence of an Intoxicant (OVUII) or Habitually Operating a Vehicle Under the Influence of an Intoxicant (HOVUII) from purchasing or publicly consuming alcohol for a probation period to be determined by the court, following a sentencing or administrative license revocation. Amends the sentencing requirements for OVUII and HOVUII offenses. Amends the threshold for HOVUII offenses. Effective 1/28/2081. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

